CHAPTER VII

TRANSFERS OF AGRICULTURAL LANDS

As mentioned in chapter I, the unrestricted rights of transfer given in the rayatwari areas tended to favour transfers to and accumulation of lands in the hands of non-agriculturists, and the tenancy problem is a direct consequence of such accumulation. The magnitude of this problem can be appreciated from the fact that during the twenty-year period from 1917 to 1937, the number of non-agriculturists owning lands in Bombay State rose from 1,85,465 to 5,30,865 (an increase of nearly 200%) and the area held by them showed an almost equal increase from 32,18,027 acres to 83,18,568 acres. This tendency became more pronounced after the Second World War. The surplus money which became abundant during the war-period and thereafter was mostly invested in land. This results in a two-fold disadvantage to the country. The capital which should have been available for more productive use is locked up in land without any additional production. A large number of bonafide agriculturists part with land and are reduced to the status of either tenants or agricultural labourers. This process must be halted.

Our objective of increasing personal cultivation also requires that adequate safeguards should be devised to ensure that the pattern of agricultural economy introduced by tenancy reforms is not upset by the passing of land to non-agriculturists again. Hence it is necessary to provide for measures to control transfers of agricultural land.

2. We considered whether it would be feasible to ban all transfers of agricultural land except with the previous approval of Government authorities. Such a ban is in operation in Hyderabad area, and also in Japan. During our tour in Gulbarga division, it was noticed that this provision of requiring prior sanction for every transfer of agricultural

land had resulted in long delays and consequent hardship to the parties concerned. The rural population are still accustomed to raise capital at short notice by sale or mortgage of their lands. The bulk of these transactions are generally between agriculturists residing in the same village or nearby villages. Insistence on prior sanction being obtained for each transfer of agricultural land with a view to ensuring that land does not pass on to non-agriculturists will hamper considerably the bona fide transactions mentioned above. We are of the view that if a ban is imposed on transfers to non-agriculturists and this ban is strictly enforced there would be no necessity to insist on prior approval. We are, therefore for incorporating in the new law section 63 of the Bombay Tenancy and Agricultural Lands Act, 1948 under which transfers of land ~~xx~~ to non-agriculturists are banned. Free transfers of owner-cultivated land among agriculturists including an agricultural labourer may be allowed subject only to the limits of ceiling. There should however be no scope for direct transfer of land leased to a tenant. Whenever the owner of leased land desires to sell his holding which will comprise resumable land only, he must intimate the Land Tribunal which will take over the land and allot it to the tenant himself under the same terms as non-resumable land. However for resumable area, Government may pay the compensation in a lumpsum.

3. There may be some cases in which the ban on transfer of agricultural land to non-agriculturists may have to be relaxed to enable persons bona fide intending take up agriculture to acquire lands. In such cases they should be enabled to do so with the Deputy Commissioner/Collector's sanction. The grant of permission should be subject to the condition that the transferee takes up agriculture within one year from the date of acquisition of the land. If the transferee gives up agriculture within five years, the land should vest in

Government subject to payment of an amount equal to ten times the net annual income of the land.

4. Experience has shown that transactions which are not in the public interest cannot be stopped by the law merely stating that they are illegal and void. These provisions of law must be followed up by strict enforcement and the law in itself must provide for adequate summary procedure for dealing with violations. We would therefore suggest that a statutory responsibility must be imposed on the village officers and offic rs of the Revenue and Land Records Departments to report all illegal transactions in agricultural land to the prescribed authority . The prescribed authority must be empowered to determine after a summary enquiry whether the transaction is valid or not. In respect of transactions declared ~~invalid~~ void the land should vest in Government subject only to payment of compensation at the rates and in the manner applicable to non-resumable lands held by tenants. These lands will also be allotted in the same manner as surplus land above the ceiling.

5. We see no objection to permitting simple mortgages of agricultural land in favour of non-agriculturists also. If the ~~xxxix~~ provisions prohibiting transfer of possession to non-agriculturists are strictly enforced, there can be no danger of the land passing into the hands of non-agriculturists on account of such mortgages.

Mortgages of agricultural land with possession should be permitted only in favour of agriculturists, subject to the condition that the extent mortgaged together with the land held by the mortgagee as owner or tenant or both does not exceed the ceiling.

In some cases mortgages with possession provide for the payment of an initial premium by the mortgagee to the mortgagor, the former enjoying the produce of the land for the stipulated period and relinquishing the land without any payment at the

end of the period. Such mortgages are in reality leases with the rent for the entire period paid in advance. As such mortgages give scope for evading the provisions relating to quantum of rent, we recommend that they should be prohibited.

6. We have not overlooked the fact that the restrictions on transfer of land may result in depreciation of the market price of land and thus affect the credit of agriculturists. The remedy is for Government to step in and supply credit in adequate measure through co-operative institutions and Land Mortgage Banks.

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